

BARNES TO TAKE CASE TO HIGHEST COURT IN STATE

Alleges Justice Andrews' Rulings Worked Him Substantial Injustice.

CONSCIENCE, HE SAYS, IS PERFECTLY CLEAR

Appeal Will Be Heard at Rochester and Probably in Early Fall.

The knowledge of the complete attitude of my conduct must content me. This knowledge is, after all, the only important thing in life. That was part of a statement issued yesterday by William Barnes after defeat at the hands of Colonel Roosevelt in his libel action. Mr. Barnes was in the city yesterday in conference with his chief counsel, William J. Jones. They both issued statements.

Mr. Jones announced that the case would be appealed. The appeal will be argued in the Appellate Division of the Fourth Department, at Rochester, probably not earlier than next fall. In case the Appellate Division upholds the verdict Mr. Jones promised that the issue would be taken to the Court of Appeals for a final decision.

One of the grounds on which the appellant will probably base his case is relative to the court's ruling on the admissibility of the evidence of the "ring" in Albany. Mr. Jones' lawyers pointed out that while Justice Andrews ruled out all such evidence when counsel for the defense attempted to introduce it, later, when Mr. Barnes was on the witness stand, the lawyers for the defense were permitted to cross-examine him in regard to this evidence, on the ground that it might affect his credibility. As the evidence had once been ruled out on the fact that it was after-dinner conversation, it was considered inadmissible, even on cross-examination, constituted an error justifying a reversal of the verdict, according to the view of the Barnes forces. But that is only one of the rulings on which the appellant will seek to reverse the Syracuse finding.

Known Accusation Was False.

Mr. Barnes' statement, in full, was as follows:

"There is nothing that I can say regarding the verdict of the jury in this matter except that when I brought the action I knew that the accusation made by Mr. Roosevelt of collusion, combination or even dicker between me and Tammany Hall, or Mr. Murphy or any other Democratic agency, not only for any corrupt purpose, but for any purpose, was absolutely false.

"When I accepted the chairmanship of the state committee in January, 1911, it was at the request of the membership of the committee at a time when I had retired from political life

and when the Republican party was out of power in the state. As chairman of that committee I never attempted to build up any 'machine' nor to dictate nominations nor to act in accordance with the ideas which formerly had prevailed with regard to the functions of that office.

"The jury declared that I had no cause for action against Mr. Roosevelt, who charged me with acts which I did not commit and, therefore, temporarily the public may believe that I was guilty of what I did not do.

"However, the knowledge of the complete rectitude of my conduct must content me, which, after all, is the only important thing in life."

Complains of Court's Attitude.

Mr. Jones discussed at some length the situation in which the Barnes forces find themselves as a result of the verdict. He said they were satisfied that the matter set out in Colonel Roosevelt's answer in justification of the charge was badly pleaded and inadmissible and that it was the duty of the court to direct a verdict for the plaintiff, as requested. His statement is, in part, as follows:

"The verdict is entirely unexpected. We were satisfied from the beginning that the attitude of the court toward the libel was not in conformity with precedent, and quoted the early similar cases of Governor Morgan Lewis and of Lieutenant Governor Root, Speaker of the Assembly and the late cases of Hoey against 'The Times,' the Cohalan case and the case of Triggs against 'The Sun.' Hamilton against Eno, as well as numerous decisions of Justice Gaynor, who was a master in the law of libel.

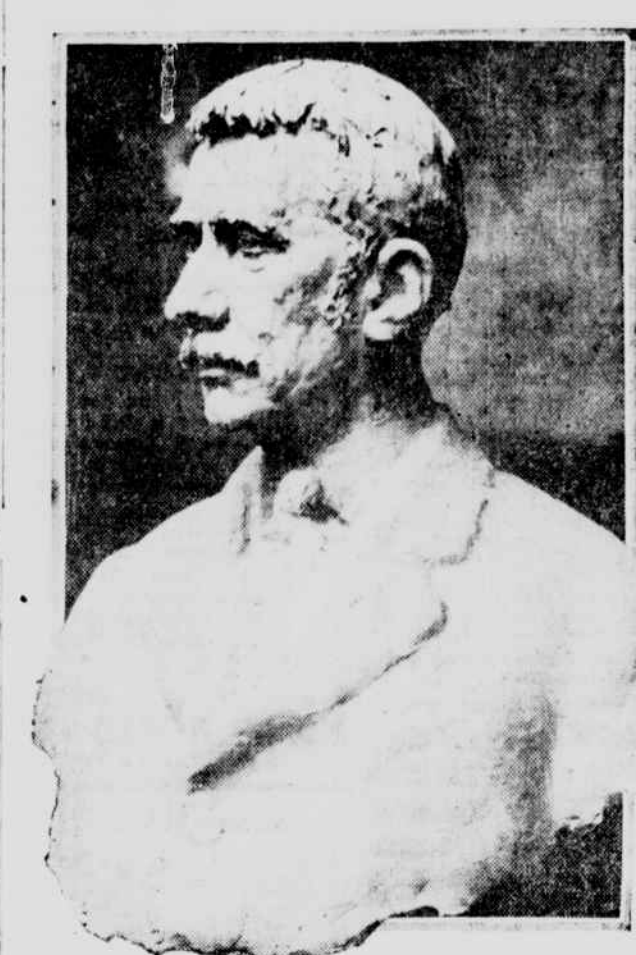
"From the outset there was a difference of opinion between court and counsel for the plaintiff as to the application of these precedents to the case at bar. The result of this was that at the trial of the case numerous objections were taken to the admission and the rejection of evidence, and the entire charge to the jury was executed to, with an exception of the law of libel, the discussion on the law of libel. The books are full of cases in which the lower courts and juries have been reversed, and we are satisfied that the matter set out in the answer in justification of the charge was badly pleaded and inadmissible, and that it was the duty of the court to direct a verdict for the plaintiff, as requested.

The court declined such request, treating the libel not in its entirety, but leaving two specific questions to the jury, in opposition to what we believe to be the proper law of the case. The result of the court's rulings at divers times was to produce a very considerable confusion in the minds of counsel on both sides, and both sides reserved all of their rights by the necessary procedure in the form of exceptions. This is all that can be said about the matter.

"In the meantime I may add that it remains absolutely true that, as a matter of law, the charge complained of was without justification and was confined in its application to the time covered by the Democratic administration, and that there was no evidence of any kind in the case of any collusion between Mr. Barnes and Mr. Murphy, but the most direct evidence of the attempt on the part of Mr. Barnes to defeat Mr. Murphy at every point."

The justices in the Fourth Department, before whom the case will come on appeal, are Frederick W. Kruse, of Olean, presiding justice; James A. Robinson, of Amsterdam; Nathaniel Foote, of Rochester; John S. Lambert, of Fredonia, and Edgar S. K. Merrill, of Lowville, associate justices.

Hamilton College to Receive Bust of Root on Alumni Day



Bust of Elihu Root, by Sciarino Carano Pietro, to be unveiled at his alma mater, Hamilton College, June 19.

Hamilton College will celebrate its alumni day on June 19, and a feature of the exercises will be the receipt from a committee of five alumni, of which Albert H. Pratt is chairman, of a bronze bust of Elihu Root, executed by Sciarino Carano Pietro, a sculptor and painter of this city.

At the request of Mr. Pratt, of the class of '01, Hamilton's foremost alumnus consented to give the necessary time for the sitting during the

interval between his retirement from the Senate and the beginning of his duties as president of the Constitutional Convention at Albany. In modeling the bust the sculptor, competent judges say, has produced a masterpiece of portrait sculpture.

The full committee of alumni who will present the bronze are Albert H. Pratt, chairman; Alexander C. Soper, '67; Henry Harper Benedict, '69; William M. Bristol, '82, and Reuben Leslie Maynard, '84.

already quoted. Then he started to thank each member of the jury in turn.

The jurors, relaxing from the strain of nearly two days of deliberation, and the Colonel and his counsel, elated at the verdict, which for a time seemed rather improbable, bubbled over. Only Edward Burns, the motorman, who stuck out for Mr. Barnes so long, seemed out of the picture. The corners of his mouth puckered up in a sort of a pessimistic laugh, but aside from that there was no expression of emotion. He is not a man of many words.

"Thank you, thank you," was the way the Colonel expressed himself to Burns, who replied half inaudibly something about wanting to do his duty.

The rounds had about been made when a photographer popped up with a camera over his shoulder.

"Oh, I say, Mr. Somers, the jury is not too tired to have their pictures taken, is it? Let's all line up," shouted the Colonel across the room.

The Colonel saw to it that Burns, who modestly stood at the outer edge of the group, was brought into the center. Then he shooed away some others who sought to get in.

"I will send every single member of the jury a signed photograph," announced the Colonel when the picture had been taken. "And I am going to have the proceedings of this trial printed, as I consider it most important, and I shall send each of you a copy of it with my name attached."

"Remember, gentlemen, I want to see you if you ever get to Oyster Bay. The litching will always be out."

Lawyer Also Overjoyed.

Mr. Bowers was no less happy over what he considered the biggest fight and most important victory in his entire career. A man who rarely expresses emotion, he seemed almost on the verge of breaking down once or twice.

The Colonel went back in the courtroom to receive the congratulation of a score of admirers.

Warren W. Somers, foreman of the jury, outlined the deliberations. It seems that the first ballot was taken twenty minutes after the jury went out at 1:45 o'clock Thursday afternoon. It stood nine for Roosevelt and three for Barnes.

Mr. Somers would not say who besides Burns had cast the Barnes ballots. It was learned, however, that one was Ray Tanner, the Marcellus farmer, and it is understood the other was Peter Benke, coal dealer in the village of Liverpool. They were the only two Democrats on the jury. In explanation of their votes it is said each had seen the men on either side preparing a ballot for the defendant, and they feared that a unanimous verdict might be rendered on the first ballot. Half an hour later the second ballot stood eleven to one for the defendant.

"After that a ballot was taken about every hour," said Somers. "Some hours we took several. The great thing that seemed to stick in the mind of Burns was that Mr. Barnes should not have costs assessed against him."

The foreman expressed the belief that had it not been for this point Burns would have gone over to the defendant long before he did.

Politics Kept Out.

"We decided strictly in accordance with the justice's charge in regard to the evidence we should consider," added Mr. Somers. "One of the great points on which the verdict rested was the question of veracity raised between the different witnesses."

"Politics did not enter at any time. Nor did we consider the printing evidence in justification, as the justice had charged us not to. I hope that no one will think we did."

"The jury was really with the defendant all along, except in the technical matter of costs raised by Mr. Burns."

The assessment of costs is largely a matter of agreement between counsel. Although the law puts them on a defeated plaintiff, it is understood that Colonel Roosevelt has instructed his counsel to refuse any money from Mr. Barnes.

The courtroom was well filled when Justice Andrews dropped his gavel soon after 10 o'clock. Colonel Roosevelt was in his usual chair at the head of his counsel table and every member of his staff was on hand.

Mr. Wolff, of Barnes' counsel, after a whispered conference with Mr. Burns, indicated that he had something to say.

"We desire, before the jury is called," he said, "to enter an objection to the

receipt or the recording of this verdict. The jury having been polled in open court, the secrecy of the grand jury room having been violated, this court has no power to receive a verdict from this jury."

"Objection overruled," said the justice tersely.

"You find for the defendant, so say you all," the jury was asked.

"So say we all," came from every lip, including Burns'.

The usual motion to set aside the verdict on the ground that it was contrary to the weight of evidence was overruled, and Justice Andrews granted the stay and right to appeal. Several lawyers have expressed the opinion that the polling of the jury yesterday makes an excellent ground for the plaintiff to believe he can get a new trial.

After the verdict Mr. Bowers, for the Colonel, issued this formal statement:

"The verdict of a unanimous jury is that Theodore Roosevelt has justified the entire article in that suit.

"The victory that Mr. Roosevelt has won is a victory for good government. In my opinion, it is the most important case that has been decided since the Civil War. The issue I put to the jury was whether machine government or government by the people should prevail, and the latter has prevailed. The article in suit was held by the court to be libellous in two aspects.

"First, because it charged a corrupt political alliance between William Barnes, the Republican leader of the state, and Charles F. Murphy, the Democratic leader of the state, in relation to the state government.

"Second, because the article charged that the plaintiff had worked through a corrupt alliance between crooked business and crooked politics. The jury was further instructed that it must render a verdict in favor of the plaintiff unless it found that the defendant established to its satisfaction, by a fair preponderance of evidence, that both charges were true. This burden was successfully borne by Mr. Roosevelt.

"It is impossible to determine at this time the far-reaching extent of this verdict for good government.

"The verdict rendered certainly assures us that the Anglo-Saxon system of determining the issues between litigants is rightly lodged in the hands of a jury of twelve men.

"Moreover, it determines that jurors holding political views opposed to those held by a party will not be swayed thereby in determining the questions submitted to them.

"Personally, of course, I am gratified with the result.

"My associates and I have fully approved the responsibility we assumed in advising the course to be taken in defending the action, and it is a source of great satisfaction that the result achieved has justified our advice."

Barnes' Paper Finds Verdict Unconvincing.

[From a Staff Correspondent of The Tribune.]

Albany, May 22.—Mr. Barnes is in no mood to let the verdict against him go unchallenged. "The verdict is purely Rooseveltian," he says. "The above are the high lights in an editorial believed to have been written by Mr. Barnes, and published this evening in his newspaper, 'The Albany Journal.'"

The editorial, headed "Does Not Alter the Truth," reads, in part:

"The plaintiff was deceived by the compensation to which he believed he was entitled because of the charge against his political actions during the period of three years and a half when he was chairman of the Republican State Committee, and about which period in particular Mr. Roosevelt made his accusation against him, of combination and coalition corruptly with his political opponents.

"Mr. Barnes is utterly guiltless of that charge. War was insistently waged upon him, using every method, by Mr. Murphy and the Democratic party, because of his independence on this position, and his steadfast opposition to them.

"Mr. Roosevelt saw fit, for his own purposes, to charge him with a corrupt coalition with the plaintiff, not being permitted to offer evidence of an affirmative character to disprove an assertion in general, but merely to disprove what the defendant brought out in evidence, was left strangled before the jury, the victim of antecedent probability and inference, with which Mr. Roosevelt's attorneys for weeks befogged the issue.

"That the jury did not see fit to condemn Mr. Barnes for this false charge does not establish its truth.

"It is possible the jury believed that Mr. Barnes co-operated with Mr. Murphy, who was responsible for the investigation of Mr. Barnes through the cloak of investigating the City and County of Albany in 1911, and the expenditure of \$50,000 of the state's money for the purpose of destroying the effectiveness in opposition, by the readers of 'The Evening Journal' certainly do not believe any such charge, and we doubt if any well informed man in the State of New York has the slightest notion in his mind of such a relation existing, or was even remotely possible. If there are men who so believe, then Mr. Barnes can only have the satisfaction in his own mind—which in the end, of course, must be sufficient—that the charge is not true."

"Bully, Wasn't It?" Says Colonel as He Receives Congratulations Here.

Colonel Roosevelt arrived from Syracuse on the New Yorker at 7:20 o'clock last night. His face was wreathed in smiles as he came through the gates at the Grand Central Terminal, and Mrs. Board Derby, the latter formerly Ethel Roosevelt; Theodore Roosevelt, Jr., and John McGrath, the Colonel's secretary, met him at the train.

Besides his relatives, a crowd of newspaper men gathered around the victor of the Barnes libel suit, and congratulations were in order. Colonel Roosevelt received them with the remarks, "Bully!" "Fine!" "It was splendid, wasn't it?"

"Have you any comment to make about the verdict?" he was asked.

"Not a word; not a word," he replied, and added with a broad smile: "I don't need to say anything. I said it all under oath. You may remember the advice I am fond of following, the advice that the New Bedford whaler gave to his mate: 'Look here, sonny, all I want from you is silence and a durable little of that.'"

The Colonel bubbled over with enthusiasm and good humor, and lingered in the station for a merry chat with his daughter, his son-in-law, Theodore, Jr., and his secretary before entering his automobile. He said he was going directly to Oyster Bay.

COL. ROOSEVELT ELECTED Playground Association Makes Him Honorary President.

Colonel Roosevelt was elected honorary president of the Playground and Recreation Association at a meeting held last night at the Waldorf-Astoria Hotel. During the meeting all the speakers emphasized the need of more attention to character building rather than to play in the sense of mere amusement. It was announced that despite the financial stringency, due to the war, the association had completed the fiscal year without a deficit.

Elected with the Colonel as officers for the coming year were Joseph Lee, Boston, president; Henry P. Davison, Kentfield, Cal., second vice-president; Robert Garrett, Baltimore, third vice-president, and Gustavus T. Kirby, treasurer.

BONWIT TELLER & CO.

The Specially Shop of Originals
FIFTH AVENUE AT 38TH STREET

ANNOUNCE, BEGINNING MONDAY, THEIR

Annual May Sale of

Women's Summer Dresses and Blouses

The sale of these dresses is the result of an unusual purchase. They have been expressly made for Bonwit Teller & Co. and reveal all the exclusive touches and refinements of style which characterize the models presented by this shop.

7.50 9.50 12.50 14.50

These Are Values That Cannot Be Excelled

Smartest Fabrics

Rodier Crepes
Handwoven Crepes
Novelty Flowered Crepes
French Linen
Linen-and-Voile
Dice Checks
Flowered Batistes
French Crepes
Flowered Voiles
Flowered Dimities
Pekin Stripes
Blazer Stripes



Twenty New Models

Double Tunic
Triple Tunic
Long Plaited Tunics
Flare Effects
Shirt Waist Types
Ripple Skirts
Flounce Skirts
Organdie Vests and Collars
Embroidered Organdie Trimming
Tucked Batiste Vests
Overbodice Effects
Ceinture Girdle Styles

Positively none of these dresses can be exchanged or credited.

White Silk Dresses

19.50

Some of the season's smartest models developed in heavy quality crepe de Chine and glace taffeta.

White Silk Dresses

29.50

Several very smart models in taffeta and crepe de Chine, plain or embroidered Georgette crepe tops.

Sale of Three Thousand Blouses—At Greatly Reduced Prices

2.00

Ten styles in lingerie and voile; white, stripes and colors. Many with new jabots and frills.

3.90

Pencil striped crepe de chine, embroidered crepe de chine and striped handkerchief linen.

5.00

The fashionable blazer stripes in various shadings in glace taffeta and crepe de chine.

Women's Summer Suits

"Palm Beach Cloth" Suits
Smart mannish types designed on sport lines, with patch pockets and belt.

15.00

Tailored Linen Suits

In white, green and blue, short mannish coat with plaits and belt; new model skirt.

18.50

White Gabardine Suits

Tailleur model, with patch pockets and belt. Detachable pique collar. Skirt to correspond.

29.50

Silk Pongee Suits

Tailleur model designed on the new sport suit lines, with patch pockets and belt.

35.00

Women's Silk Costume Suits

TO CLOSE OUT REGARDLESS OF FORMER PRICES

About Fifty Silk Suits

One or two of a kind taken from the regular stock, in faille silk.

29.50

About Forty Silk Suits

One or two of a kind taken from the regular stock, in taffeta and faille silk.

34.00

Women's Sport Coats and Evening Wraps

Guernsey Silk Coats

Sport model with girdle and belt and patch pockets. In orchid, gold, rose, blue.

16.50

Fur Trim'd Guernsey Silk Coats

Extra heavy quality. Jersey silk, in green, emerald and other favored shadings.

29.50

Marabou Tr'd Crepe de Chine Coats

Smart sport coats that serve for evening wear over light dance frocks.

29.50

Marabou Trim'd Charmeuse Coats

Evening model, 1/2 length, deep shawl collar and cuffs of marabou, silk lined.

45.00

Odds & Ends in Lingerie

TO CLOSE OUT—GREATLY REDUCED

French Handmade Lingerie

Formerly 2.50 to 8.75

1.95 2.95 3.95

Nightgowns, Combinations, Chemises, Princess Slips, Skirts, Corset Covers.

"Bontell" Lingerie

Formerly 1.95 to 3.95

.75 1.10 1.85

Nightgowns, Chemises, Drawers, Combinations, Princess Slips, Corset Covers, Skirt.

French "Bontell" Corsets, 4.95

Formerly 10.00 to 16.50

"Bontell" Brassieres,75

Extraordinary Special Sale

Women's Finest

Hand Made Low Shoes

BLACK-AND-WHITE

COMBINATIONS

BLACK

Formerly 8.00 & 9.00

6.50

A collection of the season's smartest ties and pumps in black patent leather or black calf with combination quarters and the favored black and white types.

White Fox Fur Scarfs

THE VOGUE FOR SUMMER

22.50 29.50 35.00

Full, solid skin animal scarf with head, paws and large brush. Also blue dyed (white) fox and cross fox.

Pure Thread Silk Hose

THREE PAIRS FOR 215

.75 each

In black, white and champagne, extra reinforced garter tops and soles.

To Close Out About Three Hundred

Odd Crepe de Chine Negligees

At Greatly Reduced Prices

4.95 8.95 12.75 16.50

Made of extra heavy quality crepe de chine, accordion plaited skirts lace trimmed, and lace and chiffon coat effects. Also plain satin coat models with lingerie collar and cuffs.

ABRAHAM AND STRAUS.

BROOKLYN
BY SUBWAY—25 Minutes from 96th St., 22 Minutes from 72d St., 17 Minutes from Grand Central, 9 Minutes from Brooklyn Bridge to A. & S. Subway Entrance, HOYT STREET.

Women's and Misses' Panama Hats at \$1.95 and \$2.95 Each.

Duplicates Have Sold Here at \$3 to \$5.

ONE OF THE BEST HATS WE KNOW OF for the Holiday season. Only because we were able to take over the entire stock did we obtain this great concession from the importer.

First quality Adamba Panamas, shaped in the smartest sailor and outing hat styles; rakish effects or more subdued stiff brims.

All pure white and exceptionally fine finish.

Never before has there been such a demand for Panama Hats and never before have we been able to offer such a fine lot for such little money.

Anticipate your Summer needs and buy three or four.

\$1.95 for Fine White Milan Hemp Shapes.

With black Lyons velvet underfacings; medium and large Sailors.

Black Untrimmed Hats at an Unmatched Price, 79c.

1,200 fine black Milan or plain hemp untrimmed Hats which the makers intended to retail at \$2.00, here at 79c. each. The product of one of the best makers, all fine goods and in good staple shapes; lustrous black; some have lisse and others plain edges.

200 Cartons of Fine French Flowers.

Crushed Roses, Rosebuds, full blown Roses, Montures of Roses and Foliage, Daisies, Cherries, Grapes, Camellias, white and pink; all high-grade goods, at 29c a bunch

White or All Black Trimmed Hats, \$2.79.

A sensational sale. An enormous purchase of shapes and materials enabled us to quote this price. About four hundred Hats in the lot. Fine hemp shapes in medium style Sailors; veiled effects with flowers; stiff, trimmed with wings, or bows, etc. Would be sold by exclusive milliners at \$5.00. COME EARLY.

\$1.12 for Genuine Panama Hats.

Seconds, it is true, but seconds with such slight imperfections that it is almost impossible to detect them. There are only about 500, and they will be sold very quickly. All very supple and shaped into smart outing Hat shapes. In good head sizes.

Women's Tailored and Fancy Suits at \$10.00, \$18.75 and \$29.75.

Third to Half Less Than Original Prices.

SUITS FOR EVERY OCCASION—and you never paid such small prices for styles like these.

All the most fashionable materials and wanted colors. The best types for Spring and Summer wear. Sizes range from 32 to 44, inclusive. Materials are fine gabardines, serges, wool failles, tweeds, taffetas, silk poplins, striped and checked worsteds, etc. A great many models in navy and black, also all the leading shades.

Suits that were \$14.75 to \$24.75, now \$10.00
Suits that were \$27.50 to \$37.50, now \$18.75
Suits that were \$39.75 to \$59.75, now \$29.75

Women's Palm Beach Suits at \$5.50. Lowest Price Ever Quoted.

Very latest and smartest models for Summer wear. Palm Beach cloth, natural color. Jacket is straight tailored front, the back having half belt and three box plaits from waistline down. Two large patch pockets. Skirt has new straight line, semi-flare style. Sizes 32 to 44, inclusive. \$6.50 to \$22.50 each

Also 15 other styles in natural and jasper color Palm Beach cloth at \$6.50 to \$22.50 each

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